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ABSTRACT

Mediation is a process of intervention into a dispute between two parties by a neutral third party who assists them in voluntarily reaching a mutually acceptable settlement of the issues in dispute. In a classroom setting, mediation can be a tool for teaching communication skills in a new and interesting manner. Allowing students to use newly acquired written and verbal communication skills in true-to-life situations demonstrates the practical use of what they have learned and helps them to remember the process. The sequence of steps in a formal mediation session are fact finding, defining the problem, generating options, developing a solution, and writing an agreement. Besides being a process for resolving a conflict, the five steps provide numerous opportunities for learning by adults. (Each of the five steps is analyzed, and examples of their application are given.) (KC)

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Mediate and educate

By Karen N. King

Introduction

Mediation is a recognized conflict resolution technique for many types of interpersonal problems. Although frequently used inter-changeably with "arbitration" and "negotiation," mediation is a unique process with well-defined characteristics. Because of its special properties, mediation is a suitable activity for helping adult learners gain valuable communication and problem-solving skills. Since the mediation process can be learned readily, adult educators can easily add it to their grab bag of teaching strategies.

By definition, mediation is a process of intervention into a dispute between two parties by a neutral third party who assists them in voluntarily reaching a mutually acceptable settlement of the issues in dispute. In a classroom setting, mediation can be a tool for teaching communication skills in a new and interesting manner. Allowing students to use newly acquired written and verbal communication skills in true-to-life situations demonstrates the practical uses for what they have learned. In addition, by using their skills as part of a unified process, adult learners remember better than by exercising their skills in a fragmented fashion.

The sequence of steps in a formal mediation session are fact finding, defining the problem, generating options, developing a solution, and writing an agreement. Besides being a process for resolving a conflict, the five steps provide numerous opportunities for learning by adults.

Step 1—Fact Finding (10-20 minutes)

During this initial phase of mediation, each disputant has the opportunity to present his or her view of the circumstances which led to the dispute. The mediator makes it clear that each person will have as long as needed to explain his or her position without interruption by the other party. Because the level of emotional involvement on both sides is often high, this rule is frequently difficult to follow. Nevertheless, there are opportunities for learning by both disputants if encouraged by the mediator.

As the first speaker, usually the plaintiff, begins, encouragement can be given by the mediator by giving positive non-verbal feedback, such as head nodding for a well-phrased statement. When the discourse gets off the track, the mediator can insert a few guiding questions such as "What did you do after the defendant's dog dug up your flower bed?" These behaviors on the part of the mediator assist the speaker in communicating clearly and to the point. By telling the story in his or her own way, the individual clarifies the facts in his or her mind and begins to decide what issues are negotiable.

The defendant's role during this part of the process is to listen to the plaintiff and formulate questions to be asked later. The mediator can model attentive listening behaviors such as leaning toward the speaker, maintaining eye contact, and taking notes unobtrusively. At times, the mediator may have to control the defendant's interruptions by asking the individual to remain silent or by use of a quieting hand signal. By listening, the individual learns about the other person and mentally begins the process of formulating a resolution.

The situation is now reversed with the defendant having a turn to talk as the plaintiff listens. The mediator's activities remain the same: encouraging good communication and modeling attentive listening behaviors. At the conclusion of this phase, the disputants should have a good idea of how the other person views the situation, some ideas of how the problem can be resolved, and new communication skills which will help move the process forward during the next phase.

Defining the Problem (10-15 minutes)

In this segment, rather than talking primarily to the mediator, the disputants communicate more directly with each other as they attempt to come to a common understanding of the problem. It is hoped that they will exhibit the communication skills they observed and practiced during the first phase of the process: speaking effectively and listening attentively.

An additional skill that can be learned during this phase is that of effective questioning. To make certain that they are in agreement about the problem, the disputants must question each other not only about facts but about perceptions. The example of skillful questioning that the mediator has been setting all along should begin to be emulated at this time.

Although the parties in the mediation interact with each other to define the problem, the mediator determines at what point agreement has been reached and when to move on to the next step. Writing

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the problem on a flipchart or blackboard may help to reinforce the fact that progress is being made and that a positive outcome of the mediation is a definite probability.

Generating Options (20-30 minutes)

This step in the mediation process, usually the longest, could be termed the "brainstorming" part of the process because both parties offer various suggestions for resolving the dispute depending on their own needs and perceptions of the problem. The greater the number of possible solutions brought forth, the greater the chances for an agreement that is a win-win situation for both parties. Creative thinking is definitely an asset at this point and should be encouraged by the mediator.

Although many people are reluctant at first to state their ideas, they become more confident as time goes on. The mediator can encourage creative thinking by writing all suggestions on a flipchart and offering some himself or herself. Asking a person to clarify an idea motivates the individual to improve communication and also underscores the value of the idea.

Developing a Solution (10-15 minutes)

During brainstorming, as ideas piggyback on each other, an acceptable solution is likely to emerge as the session progresses. It is essential that the mediator recognize when a possible resolution is mentioned and point it out to the participants.

At this juncture, the mediator works with the disputants to convert a general notion of a solution into specific terms that can be incorporated into a written agreement. Details need to be worked out so that each person knows what is expected of him or her and what can be expected of the other party. This activity requires that everyone look into the future and anticipate what behaviors will occur as a result of the agreement. The mediator can help the disputants at this point by posing a series of "what if" questions. For example, the mediator might say, "What if the defendant's dog is not put inside by 9 p.m. as the agreement stipulates?"

Writing an Agreement (10-15 minutes)

Since the written agreement outlines what each party will do to resolve the dispute, it must be very precise and understandable for everyone who uses it. Each word is important to the successful outcome of the mediation. At this point in the process, all parties, disputants and mediator alike, need to exercise their written communication skills.

Writing the final agreement is a collaborative process. Working together, the mediator and the disputing parties find the right words and exact sentence structure to capture the spirit as well as the details of the solution that have been arrived at during the mediation session. Everyone present would concur that the term of an agreement which states that, "The defendant will hand over to the plaintiff a cashier's check made out in the amount of $650 at 12 noon on August 24, 1987, in the lobby of the Interstate Bank Building at the corner of 1st Street and Central Avenue," is a more precise statement than "The defendant will pay back the money owed to the plaintiff." Writing the terms of the agreement on a flipchart or blackboard as they emerge and altering them when necessary helps the parties "see" what they are agreeing to in addition to hearing it read.

Conclusion

In conclusion, mediation, as a process for resolving disputes, can be used in a wide variety of situations. Although it is typically used as an alternative to legal action, it can be utilized for handling interpersonal conflicts in the workplace, in a community setting, and in the home. Mediation could help co-workers resolve a difference of opinion about job responsibilities or assist family members in making an equitable determination about use of the family car.

In a communications class for adults, the instructor can devise opportunities for practicing new skills by creating a dispute for class members to mediate around a topic of interest, for example:

> Joe Adams is a university student who works fulltime during the day and goes to school and studies at night. He has recently moved into a duplex near campus. His neighbors in the duplex, Mr. and Mrs. Wilson, are a young couple who frequently have loud parties lasting far into the night. Joe doesn't want to move but the noise interferes with his studying. Mr. and Mrs. Wilson have many friends and like to entertain regularly in their home. Each party wants the other to move. Using the mediation process, how would you assist the two parties in arriving at a mutually satisfying resolution to their dispute?

The skilled educator can discover opportunities for learning in all of the wide variety of experiences that adults encounter. Mediation, a process designed to resolve disputes between two individuals, is no exception. Anyone entering into a formal mediation session learns something about resolving conflicts. With a little effort on the part of the mediator/educator, however, the disputants can learn a great deal about written and verbal communication as well. **AAACE**

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